

**PATENT**

**IBM Docket No. POU920020016US1 10/078,076**

**Remarks**

At present, applicants' claims 1-5 stand rejected under 35 U.S.C. § 102(b) based upon the patent to Badovintz et al. (US Patent Number 5,764,875) which patent is also assigned to the same assignee as the present invention thus providing the present applicants with a unique and positive perspective with respect to characterizing the teachings found therein. Additionally, it is also noted that claim 1 is objected to for a misspelling which is corrected herein. Lastly, claim 2 stands rejected under 35 U.S.C. § 112 for antecedent basis reasons. In light of the response herein, the objection and rejection are respectfully traversed. Accordingly, claims 1-5 remain pending in the present application.

As noted, the misspelling in applicants' claim 1 of the word 'occurrence' has been corrected herein. Additionally, claim 2 has been amended herein to eliminate the antecedent basis problem. Accordingly, it is therefore respectfully requested that the objection and this particular rejection under 35 U.S.C. § 112 be withdrawn.

Attention is now focused upon the rejection of applicants' claims 1-5 under 35 U.S.C. § 102(b) based upon the cited patent. In this regard, it is preliminarily noted that a rejection under 35 U.S.C. § 102 is a narrow ground of rejection. It requires each and every element of the claimed invention to be found within the four corners of a single cited document. In the present instance, this is not the case.

It is noted that applicants' claims are directed to a method for detecting the quick restart of liveness daemons in a distributed multinode data processing system. Quick restarts represent occurrences in subject data processing systems which can lead to inconsistent understandings between the nodes in the system as to group membership and other variables. On the other hand, it is also clear that the notion of a quick restart for a node failure is nonetheless a desirable phenomenon. However, as noted in applicants' specification the presence of a quick restart process can lead to problems. It is these problems which are addressed by the subject claims.

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However, the notion of quick restart is a concept which is absolutely not present in the patent to Badovinat et al.

It is clear that Badovinat et al. do discuss things such as group membership and node failure. However, beyond those fundamental resemblances, the teachings of Badovinat et al. are not in any way commensurate with the teachings found in applicants' specification and claims. This is not in any way meant to cast dispersions upon the teachings found in Badovinat et al., but rather a simple statement that the teachings are different.

In particular, it is noted that the teaching of a quick restart is found in applicants' claim 1 and the claims which depend therefrom, but is not found in the patent to Badovinat et al. In this regard, it is particularly noted that a quick restart is not the same as a node failure recovery operation. Nonetheless, even if it were the portions of the patent to Badovinat et al. to which the Examiner refers do not support a reference to quick restart operations.

For example, in support of the Examiner's position that "a first message which includes at least indicia of occurrence of a quick restart" is found in the patent to Badovinat et al., the Examiner refers to column 14, line 66 through column 15, line 16. Within these paragraphs which are devoted to considerations of process failure, the most relevant sentence is the following: "In one embodiment, the group leader is informed of the processor failure by a subsystem that is distributed across the processing nodes of the network." In this regard, it is noted that a notification of failure is not in any sense or fashion the notification of a restart operation. Accordingly, it is seen that while Badovinat et al. refer to failure notification, there is no reference therein to restart notification.

Additionally, it is noted that in support of applicants' recitation found in their first step of "sending, from a first node to other nodes that are not in the senders membership group," the Examiner refers to column 5, lines 25-28, and column 1, lines 45-52, of the patent to Badovinat

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et al. In particular, column 5, lines 25-28, recite: "Since the Group Services daemon on the processor handling the request to join a particular process group is not aware of the process group, it knows that it is not a member of the corresponding processor group." This refers to a process for nodes joining a particular group. It does not refer to a process for detecting quick restarts of a liveness demon or responding thereto.

With respect to the recitation found in column 1, lines 42-52, it is noted that therein it is recited that there does exist a need "for a mechanism that permits one set of messages to be sent to one group of processors, while another set of messages is sent to another group of processors, and each group maintains its own set of messages." Nonetheless, this recitation even coupled with the other recitations found in Badovinatz et al., does not make up for the fact that the second portion of applicants' first recited claim step particularly indicates that the message includes at least indicia of occurrence of a quick restart. No such message content is referred to in the patent to Badovinatz et al. However, these recitations are clearly evident in applicants' claims.

As indicated above, it has been noted that a rejection under 35 U.S.C. § 102 is a narrow ground of rejection. It requires each and every element of applicant's recited claim to be found within the four corners of the cited document. In the present case, it is seen that applicants' claims do indeed refer to messages which include at least indicia of occurrence of a quick restart while it is equally clear that the patent to Badovinatz et al. makes no reference whatsoever to a message having such content. Accordingly, it is seen that the rejection of applicants' claims 1-5 under 35 U.S.C. § 102 cannot be sustained. It is therefore respectfully requested that this rejection along with the others above be withdrawn.

It is noted that the present response does not require the payment of any additional fees. It is also noted that the present response is being made as of right.

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No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless applicants have argued herein that such amendment was made to distinguish over a particular cited document or combination of documents.

Accordingly, it is now seen that all of the applicants' claims are in condition for allowance. Therefore, early notification of the allowability of applicants' claims is earnestly solicited. Furthermore, if there are any other matters which the Examiner feels could be expeditiously considered and which would forward the prosecution of the instant application, applicants' attorney wishes to indicate his willingness to engage in any telephonic communication in furtherance of this objective. Accordingly, applicants' attorney may be reached for this purpose at the numbers provided below.

Respectfully Submitted,

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